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January 12, 2007

VIA FACSIMILE

Honorable Jack B. Weinstein
Senior United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re Zyprexa Products Liability Litigation*
MDL 1596

Dear Judge Weinstein:

We write, as Your Honor requested on January 8, 2007, to advise the Court of Eli Lilly and Company's intentions to seek sanctions relating to the violations of Case Management Order No. 3 ("CMO-3"), and subsequent Orders of the Court, and to provide Your Honor with suggestions for streamlining the arguments and evidentiary hearing presently scheduled for January 16, 2007 at 2:00 p.m.

January 16, 2007 Agenda

1. Rule to Show Cause Regarding James B. Gottstein, Esquire

The first item set for argument on January 16, 2007, at 2:00 p.m., is the Rule to Show Cause relating to Mr. Gottstein's deposition and document production. As Your Honor requested, we will submit a brief in support of the proposed order, requiring Mr. Gottstein to submit to a deposition within five days, under the supervision of Special Master Peter H. Woodin, and to produce, before his deposition, copies of any and all relevant documents and information. Once Mr. Gottstein's deposition is completed, Lilly will promptly file its motions for sanctions against Mr. Gottstein.

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2. Extension of the Temporary Mandatory Injunction

The second item set for argument on January 16, at 2:00 p.m., relates to Lilly's request to extend (and other parties' requests to modify) the December 29, 2006 Temporary Mandatory Injunction. At the present time, Lilly intends to expedite its portion of the evidentiary hearing by submitting proposed Findings of Fact, supported by documentary evidence. We do not anticipate calling any witnesses. We also intend to submit a brief on the legal issues relating to an extension of the injunction. In our discussions, no other party has advised us of its intention to submit further briefing or documentary evidence on these issues, or call live witnesses.

Additional Matters

Ms. Vena Sharav, Dr. David Cohen, and the Alliance for Human Research Protection, in addition to opposing an extension of the temporary mandatory injunction, now also seek to vacate the application of CMO-3 to the documents at issue. The reasons for this legal maneuver are transparent, particularly in light of Ms. Sharav's repeated attempts to disseminate the unlawfully obtained Zyprexa documents even after entry of the Temporary Mandatory Injunction. Nevertheless, as the Court is aware, Special Master Woodin has been designated to assist in discovery matters, including issues relating to CMO-3. As a result, we respectfully suggest that the most efficient resolution of this matter is to refer the motion regarding CMO-3 to Special Master Woodin.

Contempt Proceedings

Lilly intends to seek the imposition of sanctions against Dr. David Egilman and James B. Gottstein, Esquire, for their willful and deliberate violation of CMO-3. On December 28, 2006, Your Honor ordered Dr. Egilman to submit to a deposition in New York City, under the supervision of Special Master Woodin. This Order further required Dr. Egilman to produce all relevant documents by 10:00 a.m. on January 2, 2007. Dr. Egilman did not do this. We also learned that Dr. Egilman had deleted and destroyed otherwise responsive materials. Consistent with Your Honor's December 28 Order, Dr. Egilman provided access to his computers to allow for forensic recovery of these materials.

Although the recovered materials have been provided to his counsel for review and production, Dr. Egilman has still not completed his production. We hope to finally begin his



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deposition next week, under the supervision of Special Master Woodin. Once this deposition is completed, Lilly will file its motion for sanctions against Dr. Egilman.

Respectfully,

A handwritten signature in cursive script, reading "Nina M. Gussack".

Nina M. Gussack

NMG/lis

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